

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

MFA.No. 982 of 2001(D)

**OP(MV).554/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL,
PALAKKAD .**

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APPELLANT: PETITIONER

**MURALI, S/O. P.V. NARAYANAN,
PANCHAMALA VEEDU,
NAMBULLIPURA P.O., MUNDUR,
PALAKKAD.**

**BY ADV. SRI.P.VIJAYA BHANU
SMT.ROHINI V.MENON**

RESPONDENTS: RESPONDENTS

- 1. V.MOHAN,
S/O. UNNIKRISHNAN,
CHELAMBATH HOUSE,
KODUVAYUR- PALAKKAD(R.C. OWNER OF JEEP KLL 4507).**
- 2. HAMSA, S/O. BAVAN, CHERIPURATHU VEEDU,
POST CHERAYA, PARASSERY, KONGAD,
PALAKKAD (DRIVER OF JEEP KLL 4507 D.L. NO.1362/92
VALID FROM 4.11.95 TO 3.11.98.).**
- 3. UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, II FLOOR, SURYA COMPLEX,
T.B.ROAD, PALAKKAD, (INSURER OF JEEP KLL 4507
POL. NO.101200/31/50/11/00085/95 CERT.
NO.535335.) VALID FROM 18.4.95 TO 17.4.96.).**
- 4. KALIAPPAN, S/O. VELUCHAMY,
NO.86-1-I1, CROSS ROA, 7 MAIN 2-10 BLOCK,
JAYA NAGAR, BANGALORE-11, (R.C.OWNER OF LORRY
KA/5/8087).**

M.F.A. NO.982/2001

- 5. SELVANAND, S/O. KALIYANNAN KOUNDER,
CHETTIYAMPETTY PO., NAMAKKAL, SALEM,
TAMILNAD (DRIVER OF LORRY KA/05/8087).**
- 6. ORIENTAL INSURANCE CO. LTD., BRANCH OFFICE-1,
CBO VIII 91, MYSORE ROAD, OPP.
POLICE PARADE GROUND, BANGALORE- 18.
(INSURER OF LORRY KA/05/8087. POL. NO. 863836,
VALID FROM 10.7.95 TO 9.7.96.)**

**BY ADV. SRI.M.A.GEORGE - R3
SRI.ANCHAL C.VIJAYAN - R6**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.No.982 OF 2001

Dated 4th December, 2007

JUDGMENT

Koshy,J.

Appellant/claimant met with an accident and sustained injuries on the abdomen and spleen. Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company and insurance company was directed to deposit an amount of Rs.71,300/= against a claim of Rs.2,90,000/=. Only quantum of compensation of disputed in this appeal. It has come out in medical evidence that he has sustained injuries in the abdomen, spleen was affected and finally spleen was removed. PW2 doctor gave evidence to the effect that the disability of the claimant is 20%. But, according to the Tribunal, he was running a workshop and there were employees working under the claimant. He was only a supervisor and, therefore, functional disability is only 10%. Even though it was contended that his income was Rs.150/= per day, Tribunal has taken only Rs.2,000/= as the monthly income and compensation was given only for 10% disability. Income assessed was very low. He was not only running the workshop but, he was also working in the workshop and disability will certainly affect his work turnout and affect the income from workshop. We are of the view that loss of spleen will create various

problems in future as it will decrease the resistance capacity. No amount was awarded for future medical expenses also even though a definite claim was made. Considering the injury sustained on the abdomen and spleen and also considering the fact that the doctor certified 20% disability, we are of the view that another Rs.10,000/= should be granted to the claimant over and above the decreed amount. The above Rs.10,000/= should be deposited by the third respondent insurance company with 7.5% interest from the date of application till its deposit. On deposit of the amount, the appellant is allowed to withdraw the same.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.T.SANKARAN
JUDGE

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